IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGNAL CIVIL JURISDICTION

Writ Petition No.355 of 2007

Shri Pawan Kumar
s/o Jagdish Chander
aged 30 years,occ service.
Q No.146/2 N.C.H.Colony
Kanjurmarg(West) Mumbai 78 ..... Petitioner

vs

1. Admiral Superintendent
(for Personnel Manager)
Naval Dockyard, Lion Gate
Shahid Bhagat Singh Road
Mumbai 400023

2. The Union of India
Aayakar Bhavan 2nd floor
Legal Cell New Marine Lines
Mumbai 400020 .... Respondents

Mr Jaikumar Shirdhankar i/b Mr. Tarun Kumar Sinha
for the petitioner
Ms Ritu Singh for respondents

CORAM: SWATANTER KUMAR,C.J.,&
S.C.DHARMADHIKARI, J.

JUDGMENT RESERVED ON 17.4.2007
JUDGMENT DELIVERED ON 21.6.2007

JUDGMENT(Per Swatanter Kumar,C.J.):

The petitioner applied for the post of Apprentice in Naval Dockyard, Mumbai in 1996. He was selected on merit by the Naval Dockyard department to that post. The process of selection was conducted by the Naval Dockyard. Upon his

selection in the year 1996, he was sent for 2 years' training, which he completed on 13th July 1998. Thereafter he got appointment in the Naval Dockyard on 13th July 1998 as a skilled welder (trade) and since then he has been working in that post.

2. In response to the requirement of an advertisement published by respondent No.1 in the Employment News dated 19th/25th November 2005 for the post of ship fitter, written examination was held on 21st August 2006, result of which was published and the petitioner was declared successful being in merit list on 22nd August 2006. This result was declared and the petitioner was enlisted at Serial No.2 bearing Roll No.19. A call letter was sent for interview to the petitioner on 24th August 2006 and he was allowed to enter in the chamber of the Interview Committee. The Committee consisted of 4 members and they asked the petitioner questions in relation to his trade or skilled welder, which the petitioner alleges, were answered satisfactorily by him. However, thereafter the petitioner was informed by the Members of the Committee that his interview could not be conducted as his trade was not the subject matter for selection to that post. On 24th August 2006, the petitioner claims to have visited the office of the Board, but the petitioner

was not subjected to interview, at any time subsequent thereto. In furtherance to the call letter, it is averred by the petitioner that he visited the President of the Board Captain, G.K. Harish, for confirmation of his interview date when he came to know that the result of the interview had already been dispatched and the petitioner was not required to be interviewed and that they are not going to hold any interview thereafter.

3. The petitioner, vide his advocate's notice dated 17th October 2006 addressed to the Personnel Manager of Naval Dockyard called for their explanation as to why the petitioner was not interviewed. This notice failed to get any response from the respondents. Again a notice was sent on 7th November 2006, to which the respondents sent a reply on 10th November 2006, the relevant portion of which reads as under:

> "1. Please refer to your letter dated 17th October 2006.
> 2. It is stated that Shri Pawan Kumar Jagdish Chander is an Ex-apprentice of Naval Dockyard, Mumbai who passed out on completion of training in the trade of welder. Subsequently he was appointed in this organisation as skilled in the welder trade. Since he was worker of welder trade he can apply for higher grade only in the trade of welder and not ship fitter for the simple reason that job specifications for these two trades are different. Further as per Recruitment Rules (SRO), the candidate applying for particular post

> and trade should be in possession of prescribed qualification as per rules, Shri Pawan Kumar Jagdish Chandra was apprentice of welder trade and not ship fitter and hence he was not called for interview of the post of C/Man II ship fitter. He was inadvertently issued the call letter in trade of ship fitter".

4. As is clear from the aforesaid reply, the petitioner was informed that the call letter was issued inadvertently in the trade of ship fitter and the petitioner was not entitled to the post of Chargeman II (ship fitter). To this the petitioner again sent a detailed letter dated 24th April 2006 stating that this was never indicated in the advertisement and also that there were other persons like Mr A.S. Jadhav and Mr Kawasia, who were not from the same trade, but were promoted and granted the post of senior Chargeman II (ship fitter), and there was no reason for the respondents to deny the benefit to the petitioner on these grounds. The petitioner claims that there is violation of Articles 14 and 16 of the Constitution of India and also that the action of the respondents is arbitrary.

5. The respondents, in their reply affidavit, have hardly controverted the facts. Their stand is that inadvertently a call letter was issued to the petitioner and at the time of interview it came to the knowledge of the authorities that

the petitioner was trained in the trade of welder and that he had applied for Chargeman II (ship fitter). This was the reason why the interview of the petitioner could not be conducted. The petitioner did not fulfill the conditions of essential qualifications as laid down in the Government Order No. SRO 291 dated 20th October l983. This fact was also informed by the respondents to the learned counsel for the petitioner in response to the notice dated 17th October 2006. To the contentions of the petitioner that two departmental candidates were recruited as ship fitters from different trades, it is pleaded by the respondents that this was done l3 to 15 years back and can hardly be said as examples. In any case, recruitment to Chargeman (PP&C), it is a general category and any person qualified in any trade can apply for that post. The revised trade structure does not permit appointment by inter-change of trades and the selection is not vitiated on any grounds as alleged by the petitioner.

6. At the very outset we may refer to SRO No. 29l dated 20th October l983, wherein relevant recruitment rules for Chargeman II (ship fitter) are provided. It is specifically contemplated that a person has to be from that trade. There is

no dispute to the fact before us that the petitioner is from welder trade, which is distinct and different from ship fitter cadre. The main allegation of the petitioner relates to the violation of Articles 14 and 16 of the Constitution of India, as according to him, three persons named in the petition were treated differently. Despite the fact that they were from different trades, they were appointed to the cadre of ship fitter. Again it is not in dispute that such an appointment related to a period of more than l3 to 15 years back and, according to the respondents, the records are not available and thus they cannot comment upon the correctness or otherwise of this averment. It is also not in dispute that Chargeman (PP&C) is a general cadre and candidates from all trades can be appointed to that cadre, but the present selection did not relate to the appointment to this cadre but was for a specific cadre being Chargeman-II (ship fitter). It is alleged by the respondents that out of the alleged 3 appointments, appointments could also have been made to the general cadre and not to a specific trade. The allegations made in the present petition are vague and has provided, no particulars are provided even about the three persons. In the advocate's letter dated 7th November 2006, the counsel for the petitioner had made to certain mal-

practices, corruption and nepotism in the personnel department of the respondents, which again, as it appears to us, had no basis and only bald allegations were made. Denial on the part of the respondents in not selecting the petitioner and not interviewing him was a simple one, that the petitioner was a skilled welder (trade) and thus could not be appointed to the post of ship fitter. The learned counsel for the petitioner was unable to bring to our notice any rule, which permits such recruitment, contrary to SRO No. 291 dated 20th October l983. Of course under Rule 6 the Central Government has power to relax provisions of the rule in regard to class or category of persons, but this would hardly have any application to the individual cases. In any case, there was no reference nor even any application for relaxation. Thus, there is hardly any merit in the case of the petitioner.

7. In view of the above discussion, we dismiss the petition, leaving the parties to bear their own costs.

CHIEF JUSTICE

S.C.DHARMADHIKARI,J.